IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No. 1205 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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PRAVINBHAI KALUBHAI SUTARIYA - Applicant(s)
Versus
STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :
MR TULSHI R SAVANI for Applicant(s) : 1,
PUBLIC PROSECUTOR for Respondent(s) : 1,
MR VIRAL M PANDYA for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 27/07/2007

ORAL JUDGMENT

1. Present petition has been filed by the petitioner – husband – original opponent of

Criminal Misc. Application No. 1235 of 2006 challenging the order passed below Exh.1 dated 15.2.2007 passed in Criminal Misc. Application No. 1235 of 2006 by the ld. Family Court No.2, Ahmedabad.

2. It is the contention on behalf of the petitioner that the ld. Family Court at Ahmedabad has no jurisdiction and the jurisdiction is with the ld. Court at Bhavnagar. It is also the contention on behalf of the petitioner that the petitioner has already submitted an application raising the question of jurisdiction by submitting an application dated 15.2.2007 still, the ld. Family Court has passed an order to proceed further with the said application and directed to list the matter for cross examination on 18.4.2007.

3. There is a broad consensus between the learned advocates appearing on behalf of the respective parties that the application submitted by the petitioner dated 15.2.2007 raising the question

with regard to jurisdiction to be treated as a preliminary issue and therefore, let the ld. Family Court decide the same first as a preliminary issue and decide the question with regard to jurisdiction.

4. Under the circumstances, ld. Family Court No.2, Ahmedabad is directed to pass an appropriate order in accordance with law and on merits on the application dated 15.2.2007 submitted by the petitioner and to treat the question with regard to jurisdiction as preliminary issue and decide and dispose of the same first after giving an opportunity to all the concerned parties. The said exercise be completed within a period of two months from the date of receipt of this order.

5. With these, present application is disposed of. Direct Service is permitted.

(M.R.Shah, J.)

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